

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JOSEPH MONROIG,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-00058

T. R. CRAIG,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Petitioner's January 25, 2008 *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* [Docket 1], brought on the grounds, *inter alia*, that the Federal Bureau of Prisons improperly calculated his term of imprisonment.

The Court has further reviewed the Petitioner's *Petition for Change of Venue* [Docket 4].


By *Standing Order* [Docket 2] entered on January 25, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On February 4, 2010, the Magistrate Judge submitted *Proposed Findings and Recommendation* [Docket 6] wherein it is recommended that this Court deny the Petitioner's *Petition for Change of Venue* and dismiss the Petitioner's *Application* with prejudice. Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that the Petitioner's *Petition for Change of Venue* [Docket 4] be **DENIED** and that Petitioner's *Application* [Docket 1] be **DISMISSED with prejudice**.

The Court has additionally considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: March 10, 2010


IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA